

## **REMARKS**

Applicant respectfully requests reconsideration. Claims 149-160 and 165-166 were previously pending in this application. Claims 165 and 166 are amended. Claims 149-160 and 165-166 are still pending for examination with claims 149, 157, 165, and 166 being independent claims. No new matter has been added.

### **Interview**

Applicant thanks Examiner Salmon and her supervisor for conducting a personal interview with inventor David Housman and Applicant's representative, Helen Lockhart on July 1, 2009. In the interview the prior art cited in the Office Action and potential claim amendments to claim 165 and 167 were discussed.

### **Claims 149-160**

Claims 149-160 have only been rejected under the doctrine of obviousness type double patenting. In view of the Terminal Disclaimer submitted herewith, Applicants note that claims 149-160 should be allowable.

### **Rejection Under 35 U.S.C. 103**

Claims 165-166 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cheung et al. (Proceedings National Academy Science 1996 Vol. 93 p. 14676) in view of Nikiforov et al. (WO 95/15970 June 15, 1995).

The Office has stated that it would have been obvious to modify the method of Nikiforov et al which involve the detection of SNPs using microarrays by using the DOP-PCR derived DNA fragments of Cheung et al because "Cheung et al suggests that the ordinary artisan would be motivated to try using the DOP-PCR amplified samples (e.g. the randomly-primed PCR derived RCG fragments) in other PCR based genetic analyses such as sequencing and single stranded conformation polymorphism (p. 14678 2<sup>nd</sup> column 1<sup>st</sup> paragraph)." Applicant disagrees with the rejection. However, in order to advance prosecution Applicant has amended claims 165 and 166 to recite the limitation that the RCG contains less than 30% of genomic material present in a whole genome. Thus, it is requested that the rejection be withdrawn.

**Double Patenting**

Claims 149-160 and 165-166 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,703,228.

Applicant encloses herewith a terminal disclaimer. Applicant previously had indicated that the terminal disclaimer would follow the prior amendment under separate cover prior to allowance of the claims. Applicant apologizes for the delay. However, it is believed that the rejection should now be withdrawn.


**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M0656.70098US00.

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Respectfully submitted,

By   
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